

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

BRANDON LOTTIE, §  
§  
Plaintiff, §  
§  
v. § Case No. 4:13-CV-458  
§  
AUDUBON FINANCIAL BUREAU LLC and §  
TRAVELERS CASUALTY AND SURETY §  
COMPANY OF AMERICA, §  
§  
Defendants. §

**ORDER DISMISSING CASE FOR WANT OF PROSECUTION**

On August 12, 2013, the Plaintiff filed his original complaint and jury demand (docket entry #1) against Defendants Audubon Financial Bureau LLC (“Audubon”) and Travelers Casualty and Surety Company of America (“Travelers”). On August 16, 2013, the court issued summonses to be served on the Defendants (docket entry #s 2 & 3). Travelers was served with process on August 19, 2013 (docket entry #5) and Audubon was served with process on August 20, 2013 (docket entry #4).

On September 24, 2013, the Plaintiff filed a “Request for Clerk’s Entry of Default” (docket entry #8) as to Audubon. On the same day, the clerk of court entered a clerk’s entry of default as to Audubon (docket entry #9). The Plaintiff never moved for a default judgment against Audubon. Further, the Plaintiff never sought a clerk’s entry of default or a default judgment against Travelers.

On February 25, 2014, the court contacted counsel for the Plaintiff, Mr. Jeffrey D. Wood, via email, requesting that counsel file a motion for default judgment. Although counsel responded that he would file a motion for default judgment, such a motion was not forthcoming. The court emailed counsel again on August 15, 2014 and May 26, 2015 but to no avail.

On June 30, 2015, the court again emailed counsel about filing a motion for default judgment. Counsel responded on the same day that he no longer intended to pursue the default and requested that the case be closed. The court advised counsel that he needed to file a motion to dismiss the case along with a proposed order. Neither was forthcoming.

On July 1, 2015, the court requested that counsel file a motion to dismiss this case by noon on July 2, 2015. Counsel failed to respond to the court's communication and filed nothing. On July 8, 2015, the court asked counsel to file a stipulation of dismissal. Again, counsel failed to respond to the court's communication and filed nothing.

The Plaintiff has taken no action in this case since filing the original complaint and obtaining a clerk's entry of default as to Audubon. Additionally, counsel for the Plaintiff has continuously failed to respond to the court's correspondence. Further, counsel has continuously failed to follow the directives of this court. Accordingly, the court is inclined to dismiss this case for want of prosecution. It is, therefore,

**ORDERED** that this case is hereby **DISMISSED FOR WANT OF PROSECUTION**.

IT IS SO ORDERED.

**SIGNED** this the 8th day of September, 2015.

  
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RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE